

MR1957-863

Serial Number: 10/801,709

Reply to Office Action dated 23 January 2009

**REMARKS/ARGUMENTS**

This case has been carefully reviewed and analyzed in view of the Office Action dated 23 January 2009. Responsive to the Office Action, independent Claims 1 and 20 and dependent Claims 3-5, 11-13, and 15 have been further amended to incorporate minor clarifications and remove any confusion as to their recitations. Claims 1-37 will remain pending.

In the Office Action, the Examiner the Examiner rejected Claims 1-4, 9-11, 13-21, 25-27, 30, 32-35, and 37 under 35 U.S.C. §102(a) as being anticipated by the article "Palmtops in the Operating Room" appearing in the New York Times, hereinafter referred to as NYT.

The Examiner next rejected Claims 5-6 and 22-24 under 35 U.S.C. §103(a) as being unpatentable over NYT in view of the Collamore, et al. reference, U.S. PG Pub. 2002/0188474, hereinafter referred to as Collamore.

The Examiner then rejected Claims 7-8 and 28-29 under 35 U.S.C. §103(a) as being unpatentable over NYT in view of the Byman-Kivivuori, et al. reference, U.S. PG Pub. 2004/0002305, hereinafter referred to as Byman.

Lastly, the Examiner rejected Claims 13, 31, and 36 under 35 U.S.C. §103(a) as being unpatentable over NYT in view of the [www.palm.com](http://www.palm.com) website reference, hereinafter referred to as Palm.com.

MR1957-863

Serial Number: 10/801,709

Reply to Office Action dated 23 January 2009

As amended herein, each of Applicant's independent Claims recites among its respective combination of features: a medical equipment device operatively coupled to a medical server; the medical equipment device capturing an internal image of a patient and generating a first medical report to include the internal image of the patient; a remote mobile communication apparatus receiving the first medical report and a remote medical apparatus accessing and displaying the first medical report to create a second medical report and sending the second medical report back to the medical server via the remote mobile communication apparatus.

The full combination of these and other features now more clearly recited by Applicants' pending Claims is nowhere disclosed or suggested by the cited references, taken individually, or in combination. It is respectfully submitted that certain correlations of features that the Examiner relied upon in citing the NYT reference are not well founded. Note, for instance, that while the NYT does disclose handheld computers in the hospital; NYT does not disclose a "remote medical apparatus" or a "remote mobile communication apparatus" enabling physicians to consult remotely from the hospital as in the subject Patent Application.

In contradistinction to the Claims of the subject Patent Application, NYT is directed to a system for recording and sharing hospital information, including billing, test results, and patients' bedside information. The NYT reference discloses a system with web servers to store information. Nurses input patient

MR1957-863

Serial Number: 10/801,709

Reply to Office Action dated 23 January 2009

information to organizers which send information to the web servers. Doctors in the hospital then view records that are stored on the servers. Nowhere does NYT disclose or suggest that the Doctors use a remote medical apparatus connecting to a remote mobile communication apparatus. NYT in fact states: "The P.D.A. [hand-held Personal Digital Assistant] is much easier than the P.D.R... referring to the Physicians' Desk Reference, the bulky print volume...." (Page 2, First Paragraph, emphasis added). Indeed, NYT discloses an express preference for very small, compact, hand-held organizers, to be put in use while servicing patients and an express teaching away from bulky systems. The subject Patent Application claims the remote medical apparatus, an illustrative example seen in Fig. 3 to be a laptop-type device providing a full-size (bulky) screen, which is not disclosed in NYT and is indeed taught away from as the very bulky type device which is non conducive to running around a hospital ward as NYT reports.

Further, while NYT does disclose: "With a small camera attachment [to the palmtop]," which enables "the doctors and nurses [to] use their hand-helds to take digital photographs of their charges" or photos and videos of procedures "... [to] restor[e] a little of the humanity that the factory-inspired paper records diminished... during the medical staff's weekly meetings, the patients are no longer just charts and words... [but] With the photos, ... actually bringing the babies into the conference... [for] an emotional element that used to be missed." It is respectfully submitted that this diverges quite plainly from a medical equipment

MR1957-863

Serial Number: 10/801,709

Reply to Office Action dated 23 January 2009

device operatively coupled to a medical server and being used to capture an internal image of a patient to produce a medical report for remote consultation as claimed.

Firstly, in NYT, the camera attachment was coupled to the palmtop and NOT to a medical server, as claimed. Secondly, the NYT hand-held camera was for images of patients to correlate a face with a chart, bring back the "humanity" or an "emotional element," and to identify patients or monitor staff in completed procedures; NOT to capture an internal image of a patient for future diagnoses and remote consultation prior to performing procedures as in the subject Patent Application. Thirdly, the images were used NOT for the purposes and objectives of remote consultation, as claimed in the subject Patent Application, but instead, at "the medical staff's weekly meetings," presumably situated at the hospital.

Further, the system disclosed in NYT relates to a one-way communication system, wherein the patient information is collected and transmitted from hand-held organizers to the web servers, and then from the servers to the doctors' palmtops for prescription. However, the system and method of the present invention is a two-way communication for consultation between doctors. The first medical report is transmitted to the remote medical apparatus of a first doctor, modified by the first doctor via the remote medical apparatus to generate the second report. The second medical report is then sent back to the medical server, and it can be transmitted to another remote medical apparatus of a second doctor.

MR1957-863

Serial Number: 10/801,709

Reply to Office Action dated 23 January 2009

The second medical report for the second doctor can be treated like the first medical report for the first doctor, so as to accomplish the task of two-way communications for remote consultation. As an analogy, the communication means in NYT is similar to a telegram system that just sends messages out and without respecting to the replies (one-way); the present invention is then similar to a telephone system that transmits and receives messages in the meantime (two-way).

Moreover, it is respectfully submitted that while the NYT briefly mentions aspirational use of palmtops in hospitals, that this New York Times article is a non-enabling disclosure which cannot anticipate the Claims of the instant Patent Application. As NYT does not disclose each and every element of the Claims, it cannot anticipate. Further, one of ordinary skill in the art, from a plain reading of NYT, would not be motivated to create the instant claimed approach.

Given the contrary and deficient teachings of the NYT reference, withdrawal of the Examiner's rejection under 35 U.S.C. §102(a) based thereon is respectfully requested. The secondarily-cited Palm.com, Collamore, and Byman references fail to remedy the deficiencies of NYT. These references were cited for other isolated features, and none of them disclose the unique concatenation of inter-related elements now more clearly defined in the currently amended Claims.

Thus, the combination of NYT, Palm.com, Collamore, and Byman, among other distinctions and deficiencies, does not disclose or suggest, and indeed

MR1957-863

Serial Number: 10/801,709

Reply to Office Action dated 23 January 2009

teaches away from the provision of: a medical equipment device operatively coupled to a medical server, capturing an internal image of a patient, generating a first medical report to include the internal image of the patient, employing a medical server to transmit the first medical report to a remote mobile communication apparatus via a communications network, transmitting the first medical report from the remote mobile communication apparatus to a remote medical apparatus, actuating the remote medical apparatus to display the first medical report, producing a second medical report and sending this second medical report from the remote medical apparatus back to the medical server via the remote mobile communication apparatus, as the two-way communication and remote consultation claimed in the subject Patent Application in newly amended independent Claims 1 and 20.

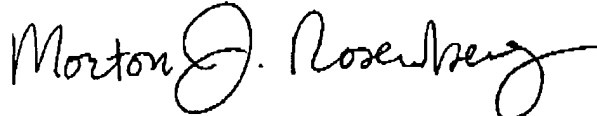
It is respectfully submitted, therefore, that the NYT, Palm.com, Collamore, and Byman references, even when considered together, fail to disclose or suggest the unique combination of elements now more clearly recited by Applicants' pending Claims for the purposes and objectives disclosed in the subject Patent Application and cannot render those Claims obvious.

It is believed that the subject Patent Application is now in condition for allowance, and such action is respectfully requested.

MR1957-863  
Serial Number: 10/801,709  
Reply to Office Action dated 23 January 2009

If there are any further charges associated with this filing, the Honorable Commissioner for Patents is hereby authorized to charge Deposit Account #18-2011 for such charges.

Respectfully submitted,  
For: ROSENBERG, KLEIN & LEE



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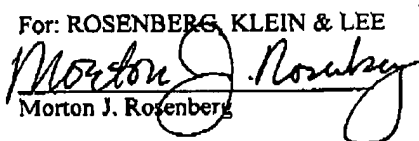
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I hereby certify that this paper is being facsimile transmitted to the U.S. Patent and Trademark Office, Art Unit #3626, at (571) 273-8300, on the date shown below.

For: ROSENBERG, KLEIN & LEE



Morton J. Rosenberg

5/26/2009  
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